

Oz. Booth Rocky Mountain Trout * * * Canyon Trout Farm Twin Falls, Idaho."

RESULTS OF INVESTIGATION: Examination showed that the article was short weight.

LIBELED: 4-18-62, Dist. Colo.

CHARGE: 403(a)—when shipped, the label statements (case) "12 10-Oz." and (pkg.) "Net Wt. 10-Oz." were false and misleading; and 403(e) (2)—the article failed to bear a label containing an accurate statement of the quantity of contents.

DISPOSITION: 8-23-62. Default—delivered to a public institution for human use and not for resale.

28352. Frozen perch fillets (4 seizure actions). (F.D.C. Nos. 45468, 45469, 45481, 45482. S. Nos. 99-224/6 R, 99-318 R.)

QUANTITY: 218 cases, each containing 10 5-lb. pkgs. at Rockland, Maine, in possession of 40-Fathom Fisheries, Inc., 906 cases, each containing 10 5-lb. pkgs. at Quincy, Mass., and 2,975 cases, each containing 12 12-oz pkgs., at Watertown, Mass.

SHIPPED: The fillets in the lots at Quincy and Watertown, Mass., were shipped on 12-20-60 and 12-21-60, from Rockland, Maine, by 40-Fathom Fisheries, Inc. The fillets in the lot at Rockland, Maine were from fish caught by the fishing vessel "Storm" in the waters of the Atlantic Ocean outside the territorial limits of the State of Maine and delivered to Rockland, Maine, on or about 12-19-60.

LABEL IN PART: (Pkg.) "Birds Eye Ready to Cook! Ocean Perch Fillets Distributed by Birds Eye Div. of General Food Corp., White Plains, N.Y."; (pkg.) "Plate Frozen * * * Port-O-Rockland * * * Quick Frozen Ocean Perch fillets Ready to Cook 40-Fathom Fisheries, Inc. Rockland, Me."; (insert label) "Port-O-Rockland Ocean Perch Fillets Quick Frozen Distributed by 40-Fathom Fisheries, Inc., Rockland, Maine."; and "40-Fathom Ocean Perch Fillets * * * Distributed by 40-Fathom Fisheries, Inc. Rockland, Me."

LIBELED: 2-17-61, Dist. Maine, and 2-10-61, 2-15-61, and 2-17-61, Dist. Mass. Amended libels, on or about 3-19-61, Dist. Maine, and 3-2-61, Dist. Mass.

CHARGE: 402(a) (3)—when shipped (Quincy and Watertown lots) and while held for sale (Rockland lot), the article consisted in part of a decomposed substance by reason of the presence therein of decomposed fish fillets.

DISPOSITION: The 4 actions were consolidated for trial in the Dist. of Maine. All of the fillets were claimed by 40-Fathom Fisheries, Inc. The matter came to trial after exchange of interrogatories before the court sitting without a jury on 4-25-61. On 6-30-61, the court issued finding of facts and conclusions of law (reported at 196 F. Supp. 255), wherein it was found that all lots consisted of more than 6 percent Class 3 fillets (Class 3 fillets being described as having a strong and offensive odor of decomposition) as classified through organoleptic tests and therefore were adulterated because they consisted in part of a decomposed substance by reason of the presence of more than 6 percent Class 3 fillets.

On 9-13-61, a consent decree of condemnation was entered which provided for the release of the goods under bond to be brought into compliance with the law. Segregated; 18,388 lbs. destroyed.